

OCT 22 1983

ALEXANDER L. STEVAS.

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No. 83-460

IN THE
Supreme Court of the United States

OCTOBER TERM, 1983

UNITED STATES OF AMERICA,*Petitioner,*

vs.

DONALD P. McMANIGAL,*Respondent.*

On Petition For A Writ Of Certiorari To The United
States Court Of Appeals For The Seventh Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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Respondent, DONALD P. McMANIGAL, respectfully prays
that this Court deny the Petition for a Writ of Certiorari
to review the Judgment and Opinion of the United States
Court of Appeals for the Seventh Circuit entered in this
case on May 19, 1983.

OPINIONS BELOW

The Opinion of the United States Court of Appeals for the Seventh Circuit may be found at 708 F.2d 276 (7th Cir. 1983). It may also be found in Petitioner's Appendix at pages 1a to 28a.

REASONS FOR DENYING THE WRIT

Respondent opposes issuance of a Writ of Certiorari in this case because the partial review of the decision in the court of appeals sought by the petitioner will not be dispositive of this case, but will only confuse the issue of forfeitability of profits and proceeds. This Court cannot, nor should it attempt, a review of whether the government can obtain a judgment in the amount of McManigal's legal fees, while ignoring the practical question of what the judgment means and what the government will actually take. Petitioner has expressly stated that it seeks no review of that portion of the court of appeals' decision dealing with the government's "relation-back" forfeiture theory. Paraphrasing what Judge Hoffman asked counsel for the government at oral argument in the court below, if the forfeiture were upheld, just what would the government seek to take?

It is respectfully submitted that the petition for a writ of certiorari should be denied because the review sought will only further confuse disposition of this case.

Respectfully submitted,

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